srp.

HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2952 OF 2007.

Gulamgaus Usman Shaikh.
Age: 31 years, Occu: Business &
Social Worker, R/a: Flat Nos.
12, 13 & 14, Harinagari Society,
Bhagwanpura Rd., Kathaa, Nashik. ..Petitioner.

Versus.

1. Deputy Collector and
SLAO, Nashik.

2. Divisional Caste Scrutiny Committee,
Nashik Division, Nashik.

3. The State of Maharashtra,
(Th: Ministry of Social Welfare
Mantralaya, Mumbai.) ..Respondents.

Mandar Goswami for the petitioner.

Mrs. M. P. Thakar A.G.P. for the respondent -State.

CORAM: S. B. MHASE &
R.S.MOHITE, JJ.

DATE: JUNE 20, 2007.

ORAL ORDER (PER S.B.MHASE,J.)

1. Rule. Rule made returnable forthwith.

2. The petitioner has challenged the order dated 12.1.2007 passed by the respondent no.2 Divisional Caste Scrutiny Committee, Nashik. The petitioner claims that he belongs to Nomadic Tribe of Chhappar-band. The said claim of the petitioner for social status has been found to be incorrect by the Caste Scrutiny Committee in the

above referred order. This petition can be disposed of on a point that the Vigilance Cell enquiry was not conducted by the respondent no.2, and therefore without entering into the other aspects of the matter we desire to dispose of this petition on this point.

3. By order dated 13th June 2007 we directed the learned AGP to make a statement as to whether the vigilance cell enquiry was conducted by the respondent no.2 or not. In view of this, Senior Welfare Inspector is present in the Court and he states after going through the record that before passing the impugned order the vigilance cell enquiry was not conducted. In fact in view of the judgment of the Supreme Court in the matter of Kumari Madhuri Patil v/s. State of Maharashtra reported in AIR-1995 SC 94, it is obligatory and must for the Caste Scrutiny Committee to call for the report of the Vigilance Cell before deciding the matter in respect of the validity of the social status of the petitioner. Since vital lapse has been committed by the Committee the order passed by the respondent no.2 stands vitiated. Therefore, we allow the writ petition. We quash and set aside the order dated 12.1.2007 passed by the respondent no.2 in respect of the social status claim of the petitioner. We direct the respondent no.2 to hold a vigilance cell enquiry in respect of the social status claim of the petitioner. In case the report of the vigilance cell is adverse to the

petitioner, we further direct the respondent no.2 to issue a copy of the said report and notice to the petitioner to meet out the said report. After giving a fresh opportunity of hearing the caste claim of the petitioner shall be decided by the Committee. Rule made absolute accordingly. Petition is disposed of accordingly.

(R.S.MOHITE, J.) **(S.B.MHASE, J.)**